

November 23, 1987

OPINION NUMBER 87-676

Honorable Emile "Peppi" Bruneau, Jr.  
Louisiana State Representative  
District 94  
5534 Canal Boulevard, Suite 4  
New Orleans, Louisiana 70124

Dear Representative Bruneau:

This is in response to your request for an opinion from this office concerning the Louisiana Open Meetings Law and the New Orleans City Park Improvement Association.

In answer to your first and second questions, the September 15, 1987 meeting of the Board was not held in accordance with the Open Meetings Law, La.R.S. 42:4.1 et seq. In Atty. Gen. Op. 85-354 it was stated that "the Open Meetings Law requires that the substance of each item under 'new business' and 'old business' must be stated in order to put interested persons on notice of what the proposed proceedings of the Board are."

The agenda did not include any detail under the "unfinished business" or "new business" categories. Therefore, in order for the Board to have taken up an item not on the agenda, a two-thirds (2/3) vote of the members present at the meeting was necessary. See LRS 42:7 A(1)

If the Legislature had intended that "new business" or "old business" without further detail would constitute sufficient notice, then it would be useless to require the two-thirds vote to change the agenda, as either category would be sufficient to cover all businesses of the Board. According to Atty. Gen. Op. 85-789, the vote to take up a matter, like all votes, must be recorded in the minutes.

Your next two questions asks whether the establishment of the proposed SPCA facility in City Park would comply with its permitted uses, set forth in Act 865 of 1982, section 3B. This section states in part that "City Park shall be used only for park purposes and for educational or cultural uses. For purposes of this section, park purposes shall include rest, recreation, exercise, pleasure, amusement and enjoyment for the public, and ornament for the city." Your observation that educational and cultural uses are not defined is correct. However, according to State v. Bradford, 141 So.2d 378 (La.1962) and 2A C. Sands, Sutherland on Statutory Construction, at 48, where language is clear, a word is held to mean what it plainly expresses.

The establishment of this facility will comply with several of the statutorily permitted uses. First, the primary use of the building will be for education. Second, there is a distinct cultural use for the facility, as it would develop the training and refining of moral and intellectual faculties of our public through education, discipline and social experience. Animals are an important part of our culture and our humanity. Third, the renovation of the Irby Building will restore it to its former condition, thereby fulfilling a park purpose of providing an ornament for the city.

Your final inquiry concerns the Board's compliance with the five

Honorable Emile "Peppi" Bruneau, Jr.  
November 23, 1987  
Page 2

year Master Plan discussed in Act 865 of 1982, section 3. Pertinent parts provide; inter alia,

"The New Orleans City Park Improvement Association shall adopt, and shall annually review and periodically amend, a master plan for the development of City Park, subject to the provisions of Section 3 of Act No. 130 of 1896, as amended, and other applicable provisions of law ... Prior to the adoption of the master plan and prior to any amendment thereof, the board of commis-

sioners of the association shall hold at least one public hearing on the proposed plan, or amendment. The board shall give notice of the hearing .... The proposed plan or any proposed amendment shall be available for inspection by the public at the offices of the board during regular office hours for at least such ten day period." (Emphasis added)

The statute is clear on its face. The Association is empowered to adopt and amend the master plan, while the Board is directed to hold a public hearing on the plan and to perform other specified tasks found in various parts of Act 865 of 1982. The Association, and not the Board, is directed to adopt and amend the master plan. See Atty. Gen. Op. 83-330.

It is therefore the opinion of this office that although the uses for the SPCA facility are permitted by statute, the Board must again bring this matter before its members in accordance with the Open Meetings Law, and the Association must be the body to adopt and amend the master plan.

Sincerely yours,

WILLIAM J. GUSTE, JR.  
ATTORNEY GENERAL

BY: \_\_\_\_\_

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ASSISTANT ATTORNEY GENERAL  
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KLK/md